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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218800
Party	Plaintiff Kimberly-Clark Worldwide, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KIMBERLY-CLARK WORLDWIDE, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91218800
)	
MATOSANTOS COMMERCIAL CORP.)	
)	
Applicant.)	

**AMENDED NOTICE
OF OPPOSITION**

Opposer, Kimberly-Clark Worldwide, Inc. (hereinafter “Opposer” or “Kimberly-Clark”), is a Delaware corporation with its principal place of business at 2300 Winchester Road, Neenah, Wisconsin, 54956. Opposer believes it will be damaged by registration of the mark TENDER PUFF BATHROOM TISSUE and Puppy Design as shown below:



(“Applicant’s Alleged Mark”) for “toilet paper” in Class 16 (“Applicant’s Goods”), which mark is the subject of application Serial No. 85/901,644, filed on April 11, 2013 by Matosantos Commercial Corp. (“Applicant”) and published for opposition

in the Official Gazette on April 15, 2014, and, by and through its undersigned attorneys, hereby opposes the same.

The grounds for this Opposition are as follows:

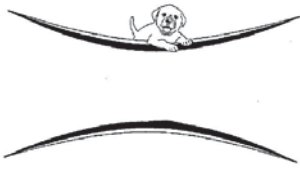

1. Opposer has adopted and used for many years in interstate commerce a Puppy shown in various poses and live in various television commercials and videos as a trademark and brand ambassador (“Opposer’s Puppy Design Mark”) for and in connection with Opposer’s marketing and promotion of, and on the packaging for, various goods in the fields of disposable paper products and personal hygiene products, including but not limited to, bathroom tissue and disposable wipes (“Opposer’s Goods”).

2. Opposer is and has been at all times pertinent hereto (including since long prior to the filing date of the Application), the owner of all right, title and interest in and to Opposer’s Puppy Design Mark.

3. Opposer is the owner of U.S. Trademark Registration No. 4,656,343 for Opposer’s Puppy Design Mark for bathroom tissue in Class 16.

Registration Details	Dates	Goods
	Registered December 16, 2014 First Use May 9, 2013	(Int’l Class: 16) Bathroom tissue

4. Opposer has a long history of use of Opposer’s Puppy Design Mark, continually in various poses and positions, as evidenced by the multiple prior registrations, including the following:

Registration Details	Dates	Goods
 SN: 78-215104 RN: 2,918,076	Registered January 11, 2005 First Use August 11, 2003 Expired	(Int'l Class: 3) Disposable wipes impregnated with a cleaning compound for personal hygiene (Int'l Class: 16) Bathroom tissue
 SN: 78-215131 RN: 2,918,077	Registered January 11, 2005 First Use August 11, 2003 Expired	(Int'l Class: 3) Disposable wipes impregnated with a cleaning compound for personal hygiene (Int'l Class: 16) Bathroom tissue

5. Opposer's Puppy Design Mark has been continuously used and extensively advertised and promoted in interstate commerce for over a decade for and in connection with one or more of Opposer's Goods.

6. Opposer has used and promoted Opposer's Puppy Design Mark in numerous ways including in various advertisements and television commercials and on its packaging as shown in the images below:



7. As a result of the long, widespread and extensive use, advertising and promotion by Opposer of Opposer's Puppy Design Mark on and in connection with Opposer's Goods, Opposer's Puppy Design Mark serves to identify and distinguish Opposer's Goods from the goods, services and businesses of others; symbolizes the goodwill of Opposer's business; is well- known; and is of great value to Opposer in connection with the offering of Opposer's Goods.

8. By the Application, Applicant seeks to register the mark TENDER PUFF BATHROOM TISSUE and Puppy Design in connection with "toilet paper" in Class 16. The design element of Applicant's mark consists of a puppy holding a heart shaped pillow as shown below:



9. The puppy shown in Applicant's Alleged Mark is the same or similar dog breed as the puppy in Opposer's Puppy Design Mark and/or is otherwise confusingly similar to Opposer's Puppy Design Mark.

10. Applicant's Application claims February 7, 2013 as the date of first use of Applicant's Alleged Mark. Accordingly, even assuming that date is accurate, Applicant is unable to establish, with respect to Opposer's use of Opposer's Puppy Design Mark, priority of use or priority of rights in the United States in connection with Applicant's Alleged Mark.

11. By virtue of its prior use, long-standing common law rights, and evidence of consistent and continual use and registrations, Opposer has rights in Opposer's Puppy Design Mark prior and superior to any rights of Applicant in Applicant's Alleged Mark.

12. Applicant's Goods and Opposer's Goods both include bathroom tissue and/or toilet paper in Class 16. In addition, on information and belief, Applicant's Goods and Opposer's Goods are of identical types; are offered or may be offered through the same or substantially the same, and/or related channels of trade, to the same, substantially the same, and/or related classes of purchasers; and are advertised, marketed and promoted through the same media channels.

13. Applicant's Alleged Mark, when used in connection with Applicant's Goods, so resembles Opposer's Puppy Design Mark as to be likely to cause confusion, or to cause mistake, or to deceive with respect to the source or origin of Applicant's Goods; with respect to Opposer's sponsorship thereof or connection or affiliation therewith; and/or in other ways, in violation of Section 2(d) of the Lanham Act.

14. Opposer would be damaged by registration of Applicant's Alleged Mark because such registration would constitute prima facie evidence of Applicant's exclusive right to use Applicant's Alleged Mark for and in connection with Applicant's Goods, which would be inconsistent with and detrimental to Opposer's prior, established and superior rights in and to Opposer's Puppy Design Mark.

15. Applicant's Alleged Mark falsely suggests a connection or affiliation with Opposer in violation of Section 2(a) of the Lanham Act and Applicant is therefore not entitled to registration of Applicant's Alleged Mark.

16. By reason of the foregoing facts, Opposer believes it will be irreparably damaged by the registration of Applicant's Alleged Mark.

PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully prays that the Application of Matosantos Commercial Corp identified by Serial No. 85/901,644 for the alleged mark TENDER PUFF BATHROOM TISSUE and Puppy Design be refused registration in Class 16, and that no registration be issued to Applicant, and that this opposition be sustained in favor of the Opposer.

Date: April 27, 2016

Respectfully submitted,

/s/ Donna F. Schmitt

Jennifer E. Hoekel

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Attorneys for Opposer

Kimberly-Clark Worldwide, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Amended Notice of Opposition was served upon Applicant on the date indicated below by depositing a true and correct copy thereof with the United States Postal Service as First Class Mail, postage prepaid, addressed to the correspondent of record for the Applicant as indicated in the USPTO TTABVUE database as follows:

Samuel F. Pamias
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United States

Dated: April 27, 2016

/s/ Donna F. Schmitt

Jennifer E. Hoekel
Donna F. Schmitt
Attorneys for Opposer